

In the Matter of License ~~No 217116-D~~ ~~Marshall~~ ~~Mariner's~~ ~~Seaman's~~ ~~Documents~~

Issued to: JOHN R. RICHARDS

DECISION AND FINAL ORDER OF THE COMMANDANT  
UNITED STATES COAST GUARD

1155

JOHN R. RICHARDS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 code of Federal Regulations 137.11-1.

By order dated 2 June 1959, an Examiner of the United States Coast Guard at Houston, Texas suspended Appellant's seaman documents for twelve months upon finding him guilty of misconduct. The two specifications found proved allege that while serving as Third Mate on the United States SS EVIBELLE under authority of the document above described, on 9 April 1959, Appellant wrongfully failed to perform his duties on the 0800 to 1200 watch due to intoxication; on 11 through 15 April 1959, Appellant was wrongfully absent from the ship at Karachi, Pakistan without permission.

At the hearing, Appellant was not represented by counsel. He entered a plea of guilty to the first of the above two specifications and not guilty to the second one.

Appellant admitted that he was gone from the ship for five days, without permission, as stated in the ship's Official Logbook which was introduced in evidence. Appellant testified that he did this because he was being harassed and annoyed to such an extent that he could not get sufficient sleep on the ship. Hence, he went ashore to rest and recuperate. On the fifth day, Appellant went to the American Consul and was told by him to go back to the ship. Appellant voluntarily went on board on 16 April and remained until the voyage ended on 25 May.

On appeal, the claim of harassment is reiterated. It is urged that this condition, caused by unknown members of the crew, was an excuse which justified Appellant's conduct.

OPINION

Appellant's absence from the ship was completely inexcusable as a matter of law. By signing the Shipping Articles, Appellant contracted to perform duties as an officer of the ship. Nevertheless, he left the ship for five days because of certain alleged annoyances (the "cracking of water pipes" is the only one specified) which certainly bothered other members of the crew also. Appellant does not even contend that he was in fear or in danger of any kind. Accepting Appellant's testimony as the truth, it is clear from the evidence as well as from the action taken by the Consul that Appellant was in the wrong. The Consul told Appellant to go back to the ship rather than discharging him from the

ship as a Consul has authority to do under 46 U. S. Code 682 in cases where he considers that there is sufficient justification for doing so. Apparently, the Consul realized that there was no semblance of any justification in this case.

The order of twelve months' suspension is suitable for an officer who has not only completely forsaken his responsibilities for five days in a foreign port, but who also could not perform his duties due to intoxication on another date. In addition, Appellant's license was suspended in 1954 for the offense of intoxication on duty.

ORDER

The order of the Examiner dated at Houston, Texas, on 2 June 1959, is AFFIRMED.

A. C. Richmond  
Vice Admiral, U. S. Coast Guard  
Commandant

Dated at Washington, D. C., this 17th day of March 1960.